

PROPOSED  
GENERAL PLAN LANGUAGE  
FOR DISCUSSION  
at  
FEBRUARY 6, 2003  
INTERESTED PERSONS'  
MEETING

1 **GENERAL PLAN LANGUAGE**

2 Amend 2 Cal. Code Regs. Section 18704.2 as follows:

3  
4 **18704.2. Determining Whether Directly or Indirectly Involved in a Governmental**  
5 **Decision: Interest in Real Property.**

6  
7 (a) Real property in which a public official has an economic interest, is directly  
8 involved in a governmental decision if any of the following apply:

9 (1) The real property in which the official has an interest, or any part of that real  
10 property, is located within 500 feet of the boundaries (or the proposed boundaries) of the  
11 property which is the subject of the governmental decision. For purposes of subdivision (a)(5),  
12 real property is located "within 500 feet of the boundaries (or proposed boundaries) of the real  
13 property which is the subject of the governmental decision" if any part of the real property is  
14 within 500 feet of the boundaries (or proposed boundaries) of the redevelopment project area.

15 (2) The governmental decision involves the zoning or rezoning, annexation or  
16 deannexation, sale, purchase, or lease, or inclusion in or exclusion from any city, county, district  
17 or other local governmental subdivision, of the real property in which the official has an interest  
18 or a similar decision affecting the real property. For purposes of this subdivision, the terms  
19 "zoning" and "rezoning" shall refer to the act of establishing or changing the zoning or land use  
20 designation on the real property in which the official has an interest.

21 (3) The governmental decision involves the issuance, denial or revocation of a license,  
22 permit or other land use entitlement authorizing a specific use or uses of the real property in  
23 which the official has an interest.

24 (4) The governmental decision involves the imposition, repeal or modification of any  
25 taxes or fees assessed or imposed on the real property in which the official has an interest.

1 (5) The governmental decision is to designate the survey area, to select the project area,  
2 to adopt the preliminary plan, to form a project area committee, to certify the environmental  
3 document, to adopt the redevelopment plan, to add territory to the redevelopment area, or to  
4 rescind or amend any of the above decisions; and real property in which the official has an  
5 interest, or any part of it is located within the boundaries (or the proposed boundaries) of the  
6 redevelopment area.

7 (6) The decision involves construction of, or improvements to, streets, water, sewer,  
8 storm drainage or similar facilities, and the real property in which the official has an interest will  
9 receive new or improved services.

10 (b) Notwithstanding subdivision (a) above, real property in which a public official has  
11 an interest is not directly involved in a governmental decision, but is indirectly involved if:

12 (1) The decision solely concerns the amendment of an existing zoning ordinance or other  
13 land use regulation (such as changes in the uses permitted, or development standards applicable,  
14 within a particular zoning category) which is applicable to all other properties designated in that  
15 category, which shall be analyzed under Title 2, California Code of Regulations, section  
16 18705.2(b).

17 (2) The decision solely concerns repairs, replacement, or maintenance of existing streets,  
18 water, sewer, storm drainage or similar facilities.

19 (3) The decision involves the initial adoption of a general plan for the entire jurisdiction.

20 (c) Determining the applicable materiality standard.

21 (1) If the real property in which the public official has an economic interest is directly  
22 involved in a governmental decision, apply the materiality standards in Title 2, California Code  
23 of Regulations, section 18705.2(a).

(2) If a real property interest is not directly involved in a governmental decision, apply the materiality standards in Title 2, California Code of Regulations, section 18705.2(b).

NOTE: Authority cited: Section 83112, Government Code.

Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

1 **GENERAL PLAN LANGUAGE**

2 **“Factors” Approach**

3 Amend 2 Cal. Code Regs. Section 18707.1 as follows:

4  
5 **18707.1. Public Generally. General Rule.**

6  
7 (a) Except as provided in Government Code sections 87102.6 and 87103.5, the material  
8 financial effect of a governmental decision on a public official's economic interests is  
9 indistinguishable from its effect on the public generally if both subdivisions (b)(1) and (b)(2) of  
10 this regulation apply.

11 (b) Significant Segments and Indistinguishable Effects.

12 (1) Significant Segment. The governmental decision will affect a “significant segment” of the public  
13 generally if any of the following are affected as set forth below:

14 (A) Individuals. For decisions that affect the personal expenses, income, assets, or liabilities of a  
15 public official or a member of his or her immediate family, or that affect an individual who is a source  
16 of income or a source of gifts to a public official, the decision also affects:

17 (i) Ten percent or more of the population in the jurisdiction of the official’s agency or the district the  
18 official represents; or

19 (ii) 5,000 individuals who are residents of the jurisdiction.

20 (B) Real Property. For decisions that affect a public official’s real property interest, the  
21 decision also affects:

22 (i) Ten percent or more of all property owners or all homeowners in the jurisdiction of the official’s  
23 agency or the district the official represents; or

24 (ii) 5,000 property owners or homeowners in the jurisdiction of the official’s agency.

25 (C) Business Entities. For decisions that affect a business entity in which a public official has an  
26 economic interest the decision also affects 2,000 or twenty-five percent of all business entities in the  
27 jurisdiction or the district the official represents, so long as the effect is on persons composed of more  
28 than a single industry, trade, or profession. For purposes of this subdivision, a not for profit entity other  
29 than a governmental entity is treated as a business entity.

30 (D) Governmental Entities. For decisions that affect a federal, state or local government entity in  
31 which the public official has an economic interest, the decision will affect all members of the public  
32 under the jurisdiction of that governmental entity.

33 (E) Exceptional Circumstances. The decision will affect a segment of the population which does not  
34 meet any of the standards in subdivisions (b)(1)(A) through (b)(1)(D), however, due to exceptional  
35 circumstances regarding the decision, it is determined such segment constitutes a significant segment of  
36 the public generally.

37 (2) Substantially the Same Manner: The governmental decision will financially affect a public  
38 official's economic interest in substantially the same manner as it will affect the significant segment  
39 identified in subdivision (b)(1) of this regulation.

40  
41 (A) To determine whether a decision will financially affect a public official’s real property  
42 interest in substantially the same manner as it will affect the significant segment identified in

43 (b)(1)(B), consideration may be given to the effect of the decision related to:

1 (i) attributes of properties owned by the official and the significant segment including, but not  
2 limited to, property location, zoning designations, current or potential use, development or  
3 income producing potential, or size; or

4 (ii) characteristics of neighborhoods in which properties owned by the official or the  
5 significant segment are located including, but not limited to, traffic, view, privacy, intensity of  
6 use, noise levels, or air emissions.

7 (B) Other Residential Property Units. For decisions that affect residential property units  
8 owned by the official, see 2 Cal. Code Regs. 18707.9(b)(5).

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10 COMMENT: The term “affect all members of the public” is intended to cover decisions affecting the  
11 public in general but to exclude decisions which uniquely benefit a public official.  
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13 NOTE: Authority cited: Section 83112, Government Code. Reference: Section 87103,  
14 Government Code.  
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1 **GENERAL PLAN LANGUAGE**

2 Add 2 Cal. Code Regs. Section 18709 as follows:

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4 **18709. Segregating Decisions.**

5  
6 (a) The agency of a public official may segregate a decision in which the public official  
7 has a conflict of interest from other decisions to allow participation by the official provided all of  
8 the following conditions apply:

9 (1) The decision in which the official has a conflict of interest can be segregated from  
10 other decisions in which the official will participate and is not interrelated or interlinked to the  
11 other decisions; and

12 (2) The decision in which the public official has a disqualifying financial interest is  
13 segregated from the other decisions on the agency's agenda; and

14 (3) The decision from which the public official is disqualified is considered first, and a  
15 final decision is reached by the agency without the disqualified official's participation in any  
16 way; and

17 (4) Once the decision in which the official is disqualified has been made, the disqualified  
18 public official's participation does not result in a reopening of, or otherwise affect, the decision  
19 in which the official was disqualified.

1 **GENERAL PLAN LANGUAGE**

2 **Sansone Proposed Language**

3  
4 **Proposed 18707.10. Public Generally. Comprehensive General Plan Amendment.**  
5

6 (a) The effect of a government decision on a public official's real property or business interests  
7 is indistinguishable from the effect on the public generally if all of the following apply:

8 (1) The government decision involves an amendment to the General Plan of the public official's  
9 agency or district the public official represents.

10 (2) The General Plan amendment applies to the entire jurisdiction of the public official's agency  
11 or district the public official represents.

12 (b) Notwithstanding the applicability of subdivision (a), if the general plan amendment includes  
13 a provision that has a unique application to the specific real property or business interests of a public  
14 official, and such provision has little to no application to the other real property and business interests in  
15 the public official's agency or district, there is a rebuttable presumption that the effect of the general  
16 plan amendment on the public official's real property or business interests is not indistinguishable from  
17 the effect on the public generally.